

REMARKS

The Examiner has objected to the specification under 35 USC §132 because it introduces new matter. Specifically, the Examiner has objected to the addition of the term “consumer” and the phrases “consumer delivery station” as added to the specification. Webster’s II New College Dictionary defines a “customer” as “1. one who buys goods or services”; and “2. *informal* a person with whom one must deal”. A “consumer” is defined in the same dictionary as “1. one that consumes”; and “2. a person who acquires goods or services; buyer”. The specification at page 7, lines 15-17 discloses “customers can come into a store and custom-order a baked food product to their own recipe criteria for immediate delivery or delivery at some future time.” The definitions for “consumer” and “customer” in Webster’s II New College Dictionary are virtually identical. The passage cited above from the specification clearly applies to “customers” or “consumers”, and the addition of the word “consumer” clearly is within the disclosure and bounds of the original specification. The Examiner has rejected the claims on the same basis. Applicant has amended both the claims and the specification to read “customer delivery device” rather than “customer delivery station”. Accordingly, Applicant respectfully requests withdrawal of the rejection.

The Examiner has taken the position that the change from “customer delivery device” as set forth in the original claim to “customer delivery station” adds new matter. Although the Applicant disagrees with this interpretation, Applicant has amended both the specification and the claim to be returned to “customer delivery device”. The amendment to the specification detailing the customer delivery device is intended to provide consistency between the claim terminology and the specification.

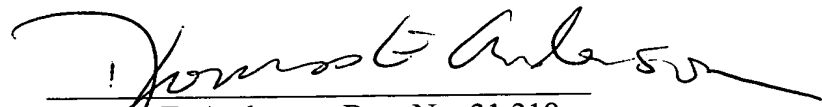
Accordingly, Applicant respectfully submits that the claims and the specification do not contain new matter and, accordingly, are in condition for examination. Applicant requests these amendments be made to place the case in condition for an appeal.

Applicant notes that the Examiner has rejected the claims under 35 USC §103 as being unpatentable over Litwak or Muskai in view of Stear and further in view of Stern et al. Applicant respectfully submits that, as argued previously, Applicant's invention as claimed can be found in the references cited above only through hindsight reconstruction of Applicant's invention.

If the Examiner has any further questions, Applicant's attorney may be reached at 248-647-6000.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "Version with Markings to Show Changes Made."

Respectfully submitted,



Thomas E. Anderson, Reg. No. 31,318
GEFFORD, KRASS, GROH, SPRINKLE,
ANDERSON & CITKOWSKI, P.C.
280 N. Old Woodward Ave.
Birmingham, MI 48009-5394
248-647-6000

Dated: 12/8/5

TEA/am

am-W:\Word Processing\tea\arm11206-amd2.doc

CERTIFICATE OF MAILING BY “EXPRESS MAIL”

“EXPRESS MAIL” MAILING LABEL NUMBER EV 205795524 US

DATE OF DEPOSIT December 9, 2002

I hereby certify that this paper or fee (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service “Express Mail Post Office To Addressee” Service under 37 CFR 1.10 on the date indicated above and is addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.

Brunie A Clack

“VERSION WITH MARKINGS TO SHOW CHANGES MADE”

IN THE SPECIFICATION:

The paragraph beginning on line 1 of page 7 has been amended as follows:

The units of dough are individually mixed and are then deposited onto the conveyor 86. The units of dough are then conveyed into the proofing unit 88 as previously described where the dough is raised. A series of individual baking ovens such as ovens 118, 120, 122 are provided for receiving, respectively, each unit of dough. The ovens then bake the dough as conventionally taught and deposit the baked dough onto a customer delivery [station] device such as a conveyor 123 or cooling racks.

IN THE CLAIMS:

Claim 1 has been amend as follows:

1 1. (Six Times Amended) An automated process for producing a range of
2 grain based baked food products from a supply of raw materials comprising:
3 providing one machine at a desired location, said machine having (a) an electronic
4 process control unit and (b) an electronic consumer interface (c) a housing, and (d) a
5 customer delivery [station] device, said machine containing a plurality of storage devices
6 having raw ingredients, a dough making apparatus and a baking station, said consumer
7 interface having one from a group comprised of a keyboard, an automated phone
8 answering device, and a modem for connection to a remote computer for receiving an
9 order from a consumer, said order including a quantity and a type of food product;
10 connecting said consumer interface electronically with said control unit;
11 storing a plurality of recipes for producing a plurality of baked food products in
12 said process control unit;

13 receiving an order from a consumer and with said consumer interface;
14 directing said dough making apparatus with said process control unit to feed said
15 raw ingredients from said plurality of storage devices into said dough making apparatus
16 to mix the ingredients according to said order;
17 controlling said dough making apparatus with said process control unit to
18 sequentially deliver said mixture of ingredients to a baking station for a predetermined
19 time to produce a finished product; and
20 delivering said finished product to said consumer at said delivery station.